

TTAB



10-05-2001

U.S. Patent & TMO/ TM Mail Rpt Dt 171

Attorney's Docket No.: 005437.M002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 76/033581

For the Mark: SEARCH 123

Filed: April 25, 2000

Published In Official Gazette: March 20, 2001

_____	
LOTUS DEVELOPMENT CORPORATION	)
	)
Opposer.	)
	)
v.	)
	)
SEARCH 123.COM, INC.	)
(formerly WEBQUEST, INC.)	)
	)
Applicant,	)
_____	

Opposition No. 91150069

NOV 10 AM 10:00

ANSWER TO NOTICE OF OPPOSITION

Assistant Commissioner for Trademarks  
Box TTAB  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Dear Sir:

Applicant, SEARCH 123.COM, INC, ("Applicant"), by and through its undersigned attorneys, answers the Notice of Opposition ("Opposition") filed by LOTUS DEVELOPMENT CORPORATION ("Opposer"), as follows:

(1) Applicant is without knowledge or belief sufficient to respond to the allegations of paragraph 1, and therefore denies same.

(2) Applicant is without knowledge or belief sufficient to respond to the allegations of paragraph 2, and therefore denies same.

(3) Applicant is without information or knowledge to form a belief about the truthfulness of the allegations pertaining to the ownership or status of U. S. Trademark registration number 1,352,553, as no certified status and title copies were provided with the Opposition, thus denies the same.

(4) Applicant is without information or knowledge to form a belief about the truthfulness of the allegations pertaining to the ownership or status of U. S. Trademark registration number 1,315,501, as no certified status and title copies were provided with the Opposition, thus denies the same.

(5) Applicant is without knowledge or belief sufficient to respond to the allegations of paragraph 5, and therefore denies same.

(6) Applicant is without knowledge or belief sufficient to respond to the allegations of paragraph 6, and therefore denies same.

(7) Applicant denies the allegations set forth in paragraph 7.

(8) Applicant denies the allegations set forth in paragraph 8.

(9) Applicant is without knowledge or belief sufficient to respond to the allegations of paragraph 9, and therefore denies same.

(10) Applicant denies the allegations set forth in paragraph 10.

**AFFIRMATIVE DEFENSES**

(11) As a first affirmative defense, there is no likelihood of confusion between Opposer's and Applicant's respective uses of their marks, as Opposer and Applicant use their marks on and in connection with different goods and services;

(12) The term 123 is often used to indicate simplicity in the use or implementation of a particular product or service and is entitled only to a limited scope of protection.

(13) As a second affirmative defense, there is no likelihood of confusion between Opposer's and Applicant's respective uses of their marks, given the differences between the sight, sound and meaning of the marks: SEARCH 123 versus 123.

Wherefore, Applicant respectfully requests that the Opposition be denied and that Application serial number 756/033,581 be allowed to mature to registration.

Respectfully submitted,

SEARCH123.COM.INC.

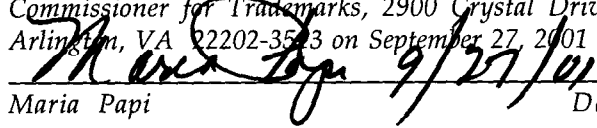
Dated: September 27, 2001

By: 

Stanley W. Sokoloff  
Willmore F. Holbrow, III  
BLAKELY, SOKOLOFF, TAYLOR  
& ZAFMAN, LLP  
12400 Wilshire Boulevard Seventh Floor  
Los Angeles, CA 90025  
(310) 207-3800  
Attorneys for Applicant

**CERTIFICATE OF MAILING:**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3543 on September 27, 2001

  
Maria Papi

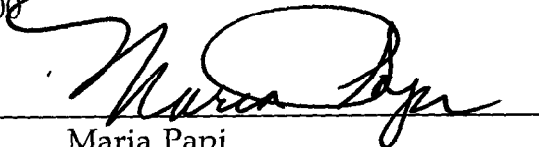
Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing ANSWER TO NOTICE OF OPPOSITION was served on the date set forth below, by first class mail, postage prepaid, upon counsel for Opposer, at the following address:

MARK B. HARRISON  
JULIE A. PETRUZZELLI  
VENABLE  
P O Box 34385  
Washington, DC 20043-9998  
Tel: 202.962.4800  
Fax: 202.962.8300

September 27, 2001

  
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Maria Papi